

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY,
TWO THOUSAND AND FOUR

PRESENT:

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 12383 of 2004

Between:

G. Srinivas Rao, S/o. Laxmaiah,
R/o. Quarter No.D-514, 1st Zone, Kalyani Khani, Mandamarri-504 231, Adilabad
District.

... PETITIONER

AND

1. The Singareni Collieries Company Limited, Rep. by its General Manager, Mandamarri Area - 504 231, Adilabad District.
2. Sri J. Ramesh, Superintendent of Mines, KK 5A Incline, The Singareni Collieries Company Limited, Mandamarri Area - 504 231, Adilabad District.
3. Sri. P. Venkateshwarlu, Superintendent of Mines, KK 5A Incline, Office of the Agent, KK Group, The Singareni Collieries Company Limited, Mandamarri Area - 504 231, Adilabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 2nd and 3rd respondents and issue an appropriate Writ, order or Direction, more particularly one in the nature of Writ of Mandamus, declaring that the action of 2nd respondent in issuing charge sheets dated 29-12-2001 and 12-6-2004 and appointing 3rd respondent as Enquiry Officer as illegal, unjust, contrary to law, arbitrary, amounts to victimization, unfair labour practice and violative of Articles 14, 16 and 21 of the Constitution of India, and grant all consequential benefits;

Counsel for the Petitioner: Mr.A.K.JAYAPRAKASH RAO

Counsel for the Respondent Nos.1 to 3: Mr.K.SRINIVASA MURTHY

The Court made the following order at the admission stage:

Oral Order:

The petitioner was appointed as an Electrician w.e.f. 18-10-1988. Subsequently, he was selected as an Electronic Data Processing Assistant (EDPA) through selection dated 10-8-1998 by virtue of a notification dated 20-7-1998. In the order dated 26-8-1998 he was asked to work for a period of two months in that capacity. After completion of the period of two months, no further orders were issued, therefore, he continued as EDPA. On 12-7-2001 the first respondent passed an order intimating the petitioner that his deputation as EDPA has been cancelled and he has to report to duty as an Electrician. The petitioner contends that he was on sick leave from 13-7-2001 to 28-7-2001 and when he reported to duty on 30-7-2001 he was served with the copy of the said order. He further contended that he immediately approached this Court through W.P.No.15689 of 2001 and this Court passed an interim direction on 31-7-2001 directing the respondents to continue the services of the petitioner as EDPA for a period of two weeks. A learned single Judge of this Court passed the following order on 31-07-2001 in W.P.M.P.No.19644 of 2001 in W.P.No.15689 of 2001:

There shall be a direction to the respondents to continue the petitioner in service for a period of two weeks. Notice

The question whether the petitioner is entitled to be continued as EDPA or not is the subject matter of the said writ petition. During the pendency of the said writ petition, the respondents passed the impugned order dated 29-12-2001 by way of a charge sheet directing the petitioner to explain as to why his absence from duty from 13-7-2001 to 16-12-2001 shall not be treated as “unauthorized absence”. Subsequently, they issued a Corrigendum on 10-6-2004 excluding the period of sick leave from the period of unauthorized absence i.e., from 13-7-2001 to 28-7-2001.

The contention of the respondents is that the petitioner failed to report to duty as an Electrician, therefore, the said period amounts to unauthorized absence.

In view of the interim orders passed in W.P.No.15689 of 2001, and in view of the issue the said writ petition is whether the petitioner is entitled to be continued as EDPA is pending final disposal, it is not desirable for the respondents to proceed with the enquiry and it has to be kept in abeyance till the disposal of the said writ petition.

In the result, the writ petition is disposed of directing the respondents to keep the enquiry against the petitioner for unauthorized absence in abeyance pending disposal of the writ petition covered by W.P.No.15689 of 2001, which would clinch the issue whether the absence of the period from reporting to duty amounts to unauthorized absence or not.

(Dr.G. Yethirajulu, J)

svs

... ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Singareni Collieries Company Limited, Rep. by its General Manager,Mandamarri Area - 504 231, Adilabad District.
2. Sri J. Ramesh, Superintendent of Mines, KK 5A Incline, The Singareni Collieries Company Limited, Mandamarri Area - 504 231, Adilabad District.
3. Sri. P. Venkateshwarlu, Superintendent of Mines, KK 5A Incline, Office of the Agent, KK Group, The Singareni Collieries Company Limited, Mandamarri Area - 504 231, Adilabad District.
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